

Foster, Denise

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From: David Ruzumna [david@ruzumna.com]  
Sent: Thursday, January 17, 2013 10:11 AM  
To: Foster, Denise  
Subject: Comment to CrR 2.3(c) Proposed Amendment

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January 17, 2013

VIA E-MAIL ONLY  
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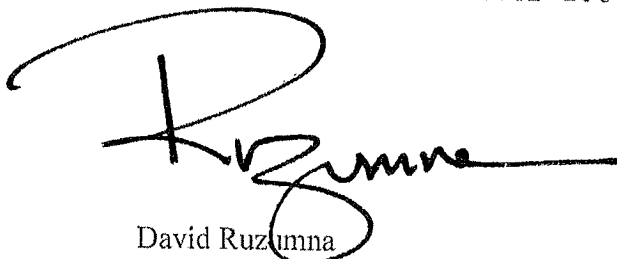
*Re: Proposed Amendments to CrR 2.3(c)*

To Whom it May Concern:

I am writing to comment on the proposed changes to CrR 2.3(c). I would suggest that an effort be made to preserve any metadata. Preserving metadata reduces the possibility of either the sender or recipient manipulating the time and date shown for transmission or receipt, and should generally be preserved if the courts are moving into the world of electronic authorization for something as invasive as a search or seizure.

Also, the last sentence of 2.3(c) seems inconsistent with the requirement that the warrant provide for a ten day "window" for service; I assume, therefore, that the language "...served at any time" is meant to refer to the time of day or night within the ten day window. Also, the issuing court should have the option (which will probably be exercised in very rare circumstances) of restricting searches to daytime hours. I have proposed changes in *bold, red italicized and underlined font* on the following page.

Very truly yours,  
LAW OFFICE OF DAVID RUZUMNA, PLLC:



David Ruzumna

**SUPERIOR COURT CRIMINAL  
RULE 2.3 SEARCH AND SEIZURE**

[(a) and (b) are unchanged]

(c) **Issuance and Contents.** A search warrant may be issued only if the court determines there is probable cause for the issuance of a warrant. There must be an affidavit, a document as provided in RCW 9A.72.085 or any law amendatory thereto, or sworn testimony establishing the grounds for issuing the warrant. The sworn testimony may be an electronically recorded telephone statement, facsimile machine document, or electronically mailed document. The recording or a duplication of the recording, facsimile, or electronic mail *along with any metadata associated therewith,* shall be a part of the court record and shall be transcribed if requested by a party if there is a challenge to the validity of the warrant or if ordered by the court. The evidence in support of the finding of probable cause shall be preserved and shall be subject to constitutional limitations for such determinations and may be hearsay in whole or in part. If the court finds that probable cause for the issuance of a warrant exists, it shall issue a warrant or direct an individual whom it authorizes for such purpose to affix the court's signature to a warrant identifying the property or person and naming or describing the person, place or thing to be searched. The court's authorization may be done by electronic mail. The court shall record a summary A record shall be made of any additional submitted evidence on which it the court relies. The warrant shall be directed to any peace officer. It shall command the officer to search, within a specified period of time not to exceed 10 days, the person, place, or thing named for the property or person specified. It shall designate to whom it shall be returned. *Unless otherwise specified in the warrant,* the warrant may be served at any hour.

[(d) - (f) are unchanged]